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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,518	09/17/2003	Theodore B. Shockley	35481-73372	4878
23643	7590	03/08/2006	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			HENDERSON, MARK T	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

JP

# Office Action Summary

Application No.

10/664,518

Applicant(s)

SHOCKLEY, THEODORE B.

Examiner

Mark T. Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5, 10-13, 15-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-13, 15-19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED OFFICE ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 22, 2005 has been entered.

2. Claim 15 has been amended for further examination. Claims 24-27 have been added. Claims 6-9, 14, and 20 have been canceled.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 10-13, 15-19, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Submission of Prior Art (ASPA) in view of McCall et al (6,322,667)

ASPA discloses a tube and a plurality of tickets wrapped around the tube, the plurality of tickets having interconnected ends defining rows of perforations therebetween (see Fig. 1 Prior Art).

However, ASPA does not disclose a substrate having a caliper characteristic between 5 and 7.5 points (1 point equals .0001 inches) and an opacity characteristic over 98%.

McCall discloses in Fig. 10, 15 and 17, paper substrate having the caliper characteristic of 188 um (.0073in or 7.3 points as shown in Table 15), and an opacity of 98.1% (Table 17).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify ASPA's ticket with a paper substrate having a caliper of 7.3 and an opacity of 98.1% as taught by McCall for providing an alternative paper substrate.

In regards to **Claims 2 and 16**, wherein the roll comprises 1000 or 2000 tickets, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any required number of tickets on the roll, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Furthermore, applicant has failed to disclose that these values are critical to the invention.

In regards to **Claims 3, 15 and 17**, wherein the diameter of the roll is less than 4.5 inches or 6.5 inches, it would have been an obvious matter of design choice to provide any required dimension for the diameter of the roll, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Furthermore, applicant has failed to disclose that these values are critical to the invention.

In regards to **Claims 5, 11, 12, and 18**, it would have been obvious to construct the substrate paper in any desirable caliper and opacity size, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been obvious to construct the paper substrate in any desirable caliper and opacity size, since applicant has not disclosed the criticality of having a particular opacity and caliper dimensions, and invention would function equally as well in any desirable size dimension.

4. Claims 21, 22, 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes (4,270,774) in view of McCall.

Barnes discloses in Fig. 2-4, a strip of stock paper defining a plurality of tickets, wherein the tickets have interconnected ends defining rows of perforations therebetween, and being folded along the perforations (see Fig. 4 and Col. 2, lines 2-8) to provide a layer or deck of tickets.

However, Barnes does not disclose a substrate having a caliper characteristic between 5 and 8 points (1 point equals .0001 inches) and an opacity characteristic less than 98%.

McCall discloses in Fig. 10, 15 and 17, paper substrate having the caliper characteristic of 188 um (.0073in or 7.3 points as shown in Table 15), and an opacity of 98.1% (Table 17).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Barnes's tickets with a paper substrate having a caliper of 7.3 and an opacity of less than 98% as taught by McCall for providing an alternative paper substrate.

5. Claims 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes (4,270,774) in view of McCall, and further in view of Shoemaker (6,796,487).

Barnes as modified by McCall discloses a plurality of tickets comprising all the elements as claimed in Claims 21 and 24, and as set forth above. However, Barnes does not disclose wherein each ticket has a dark line marking (barcode) for triggering a light and sensor ticket counting device.

Shoemaker discloses in Fig. 3 and in Col. 2, lines 40-48 wherein each ticket has a dark line (barcode shown in Fig. 3 and 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Barnes's and McCall's tickets with printed indicia as taught by Shoemaker for triggering a light and sensor ticket counting device.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes (4,270,774) in view of McCall, and further in view of Horniak (5,211,093).

Barnes as modified by McCall discloses a plurality of tickets comprising all the elements as claimed in Claims 21 and 24, and as set forth above. However, Barnes does not disclose wherein each ticket has an aperture or notch for triggering a light and sensor ticket counting device.

Horniak discloses in Fig. 1, 3, 5, and in Col. 2, lines 9-22 and Col. 3, lines 29-45 wherein each ticket has a notch or aperture (34).

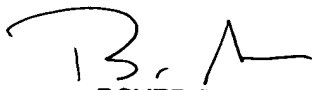
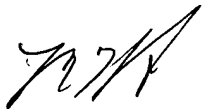
Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Barnes's and McCall's tickets with apertures or notches as taught by Horniak for triggering a light and sensor ticket counting device.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scrymgeour et al discloses similar tickets having perforations.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Boyer Ashley, can be reached at (571) 272-4502. The formal fax number for TC 3700 is (571) 273-8300.



BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER

MTH

March 4, 2006